

ASSEMBLY BILL

No. 219

**Introduced by Committee on Utilities and Commerce (Wright
(Chair), Pescetti (Vice Chair), Canciamilla, Diaz, Jackson,
Kelley, Papan, Reyes, and Wesson)
(Coauthor: Assembly Member Corbett)**

February 9, 2001

An act to amend Sections 2881 and 2881.2 of, and to repeal Section 2881.01 of, the Public Utilities Code, relating to public utilities, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 219, as introduced, Committee on Utilities & Commerce. Public utilities: deaf and disabled telecommunications program.

Existing law requires the Public Utilities Commission to establish a rate recovery mechanism through surcharges on intrastate telephone service, until January 1, 2001, to recover the costs for providing telecommunications devices capable of serving the needs of the deaf and hearing impaired and telecommunications equipment for the disabled.

This bill would extend the requirement for those telephone surcharges until January 1, 2006, and delete an obsolete provision.

The bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2881 of the Public Utilities Code is
2 amended to read:

3 2881. (a) The commission shall design and implement a
4 program to provide a telecommunications device capable of
5 serving the needs of individuals who are deaf or hearing impaired,
6 together with a single party line, at no charge additional to the basic
7 exchange rate, to any subscriber who is certified as an individual
8 who is deaf or hearing impaired by a licensed physician and
9 surgeon, audiologist, or a qualified state or federal agency, as
10 determined by the commission, and to any subscriber that is an
11 organization representing individuals who are deaf or hearing
12 impaired, as determined and specified by the commission pursuant
13 to subdivision (e). A licensed hearing aid dispenser may certify the
14 need of an individual to participate in the program if that
15 individual has been previously fitted with an amplified device by
16 the dispenser and the dispenser has the individual's hearing
17 records on file prior to certification.

18 (b) The commission shall also design and implement a program
19 to provide a dual-party relay system, using third-party intervention
20 to connect individuals who are deaf or hearing impaired and
21 offices of organizations representing individuals who are deaf or
22 hearing impaired, as determined and specified by the commission
23 pursuant to subdivision (e), with persons of normal hearing by way
24 of intercommunications devices for individuals who are deaf or
25 hearing impaired and the telephone system, making available
26 reasonable access of all phases of public telephone service to
27 telephone subscribers who are deaf or hearing impaired. In order
28 to make a dual-party relay system that will meet the requirements
29 of individuals who are deaf or hearing impaired available at a
30 reasonable cost, the commission shall initiate an investigation,
31 conduct public hearings to determine the most cost-effective
32 method of providing dual-party relay service to the deaf or hearing
33 impaired when using a telecommunications device, and solicit the



1 advice, counsel, and physical assistance of statewide nonprofit
2 consumer organizations of the deaf, during the development and
3 implementation of the system. The commission shall phase in this
4 program, on a geographical basis, over a three-year period ending
5 on January 1, 1987. The commission shall apply for certification
6 of this program under rules adopted by the Federal
7 Communications Commission pursuant to Section 401 of the
8 *federal* Americans with Disabilities Act of 1990 (Public Law
9 101-336).

10 (c) The commission shall also design and implement a program
11 whereby specialized or supplemental telephone communications
12 equipment may be provided to subscribers who are certified to be
13 disabled at no charge additional to the basic exchange rate. The
14 certification, including a statement of medical need for specialized
15 telecommunications equipment, shall be provided by a licensed
16 physician and surgeon acting within the scope of practice of his or
17 her license, or by a qualified state or federal agency as determined
18 by the commission. The commission shall, in this connection,
19 study the feasibility of, and implement, if determined to be
20 feasible, personal income criteria, in addition to the certification
21 of disability, for determining a subscriber's eligibility under this
22 subdivision.

23 (d) The commission shall establish a rate recovery mechanism
24 through a surcharge not to exceed one-half of 1 percent uniformly
25 applied to a subscriber's intrastate telephone service, other than
26 one-way radio paging service and universal telephone service,
27 both within a service area and between service areas, to allow
28 providers of the equipment and service specified in subdivisions
29 (a), (b), and (c), to recover costs as they are incurred under this
30 section. The surcharge shall be in effect until January 1, ~~2004~~
31 ~~2006~~. The commission shall require that the programs
32 implemented under this section be identified on subscribers' bills,
33 and shall establish a fund and require separate accounting for each
34 of the programs implemented under this section.

35 (e) The commission shall determine and specify those
36 statewide organizations representing the deaf or hearing impaired
37 ~~which~~ *that* shall receive a telecommunications device pursuant to
38 subdivision (a) or a dual-party relay system pursuant to
39 subdivision (b), or both, and in which offices the equipment shall



1 be installed in the case of an organization having more than one
2 office.

3 (f) The commission may direct any telephone corporation
4 subject to its jurisdiction to comply with its determinations and
5 specifications pursuant to this section.

6 (g) The commission shall annually review the surcharge level
7 and the balances in the funds established pursuant to subdivision
8 (d). Until January 1, ~~2001~~ 2006, the commission shall be
9 authorized to make, within the limits set by subdivision (d), any
10 necessary adjustments to the surcharge to ensure that the programs
11 supported thereby are adequately funded and that the fund
12 balances are not excessive. A fund balance which is projected to
13 exceed six months' worth of projected expenses at the end of the
14 fiscal year is excessive.

15 (h) The commission shall prepare and submit to the
16 Legislature, on or before December 31, 1988, and annually
17 thereafter, a report on the fiscal status of the programs established
18 and funded pursuant to this section and Sections 2881.1 and
19 2881.2. The report shall include a statement of the surcharge level
20 established pursuant to subdivision (d) and revenues produced by
21 the surcharge, an accounting of program expenses, and an
22 evaluation of options for controlling those expenses and
23 increasing program efficiency, including, but not limited to, all of
24 the following proposals:

25 (1) The establishment of a means test for persons to qualify for
26 program equipment or free or reduced charges for the use of
27 telecommunication services.

28 (2) If and to the extent not prohibited under Section 401 of the
29 *federal* Americans with Disabilities Act of 1990 (Public Law
30 101-336), the imposition of limits or other restrictions on
31 maximum usage levels for the relay service, which shall include
32 the development of a program to provide basic communications
33 requirements to all relay users at discounted rates, including
34 discounted toll call rates, and, for usage in excess of those basic
35 requirements, at rates which recover the full costs of service.

36 (3) More efficient means for obtaining and distributing
37 equipment to qualified subscribers.

38 (4) The establishment of quality standards for increasing the
39 efficiency of the relay system.



(i) In order to continue to meet the access needs of individuals with functional limitations of hearing, vision, movement, manipulation, speech and interpretation of information, the commission shall perform ongoing assessment of, and if appropriate, expand the scope of the program to allow for additional access capability consistent with evolving telecommunications technology.

SEC. 2. Section 2881.01 of the Public Utilities Code is repealed.

~~2881.01. (a) Notwithstanding subdivision (d) of Section 2881, the surcharge shall be in effect until January 1, 2001.~~

~~(b) Notwithstanding subdivision (f) of Section 2881, the commission shall be authorized to make the prescribed adjustments until January 1, 2001.~~

SEC. 3. Section 2881.2 of the Public Utilities Code is amended to read:

2881.2. (a) In addition to the requirements of Section 2881, the commission shall design and implement a program that shall provide for publicly available telecommunications devices capable of servicing the needs of the deaf or hearing impaired in existing buildings, structures, facilities, and public accommodations of the type specified in Section 4450 of the Government Code and Sections 19955.5 and 19956 of the Health and Safety Code, making available reasonable access of all phases of public telephone service to individuals who are deaf or hearing impaired. The commission shall direct the appropriate committee under its control to determine and specify locations within existing buildings, structures, facilities, and public accommodations in need of a telecommunications device and to contract for the procurement, installation, and maintenance of these devices. In the letting of the contract, the commission shall direct the committee to ensure consideration of for-profit and nonprofit corporations, including nonprofit corporations with demonstrated service to individuals who are deaf or hearing impaired and whose boards of directors and staff are made up of a majority of those individuals. The commission shall also direct the committee to seek the cooperation of the owners, managers, and tenants of the existing buildings, structures, facilities, and public accommodations that have been determined to be in need of a telecommunications device with regard to its installation and maintenance. The

1 commission shall phase in this program over a reasonable period
2 of time, beginning no later than January 1, 1998, giving priority
3 to those existing buildings, structures, facilities, and public
4 accommodations determined by the commission, with the advice
5 and counsel of statewide nonprofit consumer organizations for the
6 deaf, to be of most importance and usefulness to the deaf or hearing
7 impaired.

8 (b) The commission shall ensure that costs are recovered as
9 they are incurred under this section, including any costs incurred
10 by the owners, managers, or tenants of existing buildings,
11 structures, facilities, and public accommodations, and shall utilize
12 for this purpose the rate recovery mechanism established pursuant
13 to subdivision (d) of Section 2881. The commission shall also
14 establish a fund and require separate accounting for the program
15 implemented under this section and, in addition, shall require that
16 the surcharge utilized to fund the program not exceed
17 two-hundredths of 1 percent, that it be combined with the
18 surcharge required by subdivision (d) of Section 2881, and that it
19 count toward the limits set by that subdivision. This surcharge
20 shall be in effect until January 1, ~~2001~~ 2006.

21 (c) “Existing buildings, structures, facilities, and public
22 accommodations,” for the purposes of this section, means those
23 buildings, structures, facilities, and public accommodations or
24 parts thereof that were constructed or altered prior to January 26,
25 1993, or are otherwise not required by Section 303 of the *federal*
26 Americans with Disabilities Act of 1990 (Public Law 101-336)
27 (42 U.S.C., Sec. 12183) or any other section of that act and its
28 implementing regulations and guidelines, to have a publicly
29 available telecommunications device capable of serving the needs
30 of the deaf or hearing impaired.

31 SEC. 4. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety
33 within the meaning of Article IV of the Constitution and shall go
34 into immediate effect. The facts constituting the necessity are:

35 In order to reinstate a telephone surcharge that is needed in order
36 to recover the costs for telecommunications devices capable of
37 serving the needs of the deaf and hearing impaired and

- 1 telecommunications equipment for the disabled, it is necessary for
- 2 this act to take effect immediately as an urgency statute.

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